

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



**FILED**

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Order Instituting Investigation on the  
Commission's Own Motion into the Rates,  
Operations, Practices, Services and Facilities of  
Southern California Edison Company and San  
Diego Gas and Electric Company Associated with  
the San Onofre Nuclear Generating Station Units  
2 and 3.

And related matters

Investigation 12-10-013  
(Filed October 25, 2012)

Application 13-01-016  
Application 13-03-005  
Application 13-03-013  
Application 13-03-014

**MOTION FOR PARTY STATUS OF PUBLIC WATCHDOGS**

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**MOTION FOR PARTY STATUS OF PUBLIC WATCHDOGS**

**I. Introduction**

Public Watchdogs respectfully moves for party status in this proceeding in accordance with Section 1.4 of the California Public Utilities Commission ("Commission") Rules of Practice and Procedure.

**II. Interest in this Proceeding**

In compliance with Rule 1.4.b Public Watchdogs is a 501(c)3 California non-profit representing the interests of all Southern California Edison (SCE) and San Diego Gas & Electric (SDG&E) utility ratepayers and the Juaneño band of the Acjachemen Nation,<sup>1</sup> the original residents of the current location of the San Onofre Nuclear Generating Station (SONGS), and more than 2,500 Public Watchdogs supporters who reside in the service territories of Southern

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<sup>1</sup> The Acjachemen Nation is a tribe recognized by the State of California. An authorization from the Acjachemen is attached as Exhibit A.

California Edison and San Diego Gas & Electric, the co-owners of the failed San Onofre Nuclear Generating Station (SONGS).

Public Watchdogs' Articles of Incorporation state that "Public Watchdogs may represent consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation that is subject to the jurisdiction of the California Public Utilities Commission; and may represent the interests of residential customers, or represent small commercial customers who receive bundled electric service from an electrical corporation."<sup>2</sup>

### **III. INTERVENTION OF PUBLIC WATCHDOGS IS NECESSARY AT THIS STAGE OF THE PROCEEDING TO ENSURE THAT RATEPAYER INTERESTS ARE REPRESENTED IN EVALUATING THE PROPOSED SETTLEMENT**

To date, Public Watchdogs has observed the proceedings in this matter with the belief that the interest of Southern California ratepayers and other local interest groups were adequately protected by consumer organizations with experienced and aggressive counsel fighting to overturn the ill-conceived original settlement, making the direct involvement by Public Watchdogs unnecessary.

Now, all truly active consumer representatives in this proceeding have accepted a revised settlement and, as a result, this proceeding will potentially lack any active party taking an adversarial role in support of the interest of local consumers and community members with respect to Edison and SDG&E's malfeasance at San Onofre. This concern is heightened by the fact that at least one particularly active and formally aggressive opponent of the original settlement appears to have a very substantial financial interest in the adoption of the proposed revised settlement, namely a potential \$5.4 million pre-negotiated payout under the auspices of directly related court litigation.

It is our belief that never in the 107-year history of the Commission has an intervenor been paid \$5.4 million in compensation for participating in a rate setting proceeding. This unsavory side deal not only undermines the legal authority of the Commission's intervenor

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<sup>2</sup> Public Watchdogs' articles of incorporation may be viewed at the California Attorney general's [Registry of Charitable Trusts](https://goo.gl/dHqYhB) at <https://goo.gl/dHqYhB>

compensation program, but it also undermines the incentives for participating in intervenor process and increases incentives to collaterally attack Commission decisions through courts. The extent of any “side-deals” with other former advocates for consumer interests is currently unknown and should be explored as the proposed settlement is evaluated. Naturally, no current party to the settlement will have an incentive to raise these serious concerns about how these consumer groups were brought into the settlement. The effect of inadequate review of a settlement in a case like this may be to create incentives for intervenors to short-change analysis that is essential for the Commission's decision-making process in order to be assured of compensation

The proposed settlement also appears to condone the very same acts that the consumer advocates have railed against for the last several years. Public Watchdogs will show that while the settlement may shift some dollars around to different places, the proposed settlement violates three basic criteria that must be considered by the Commission in any rate setting proceeding, and as a result has seven serious flaws:

**1. The settlement violates the Used and Useful standard.**

Public Watchdogs will explore how ratepayers have been charged \$2 billion for non-functioning equipment. Commission guidelines require that before a utility can charge ratepayers for its capital investments in its rates, it must first establish that the equipment is used and useful.<sup>3</sup>

**2. The settlement ignores the Prudent Manager standard.**

Public Watchdogs will examine whether or not SCE installed improperly licensed or unlicensed equipment at SONGS that would have failed to pass a required regulatory design review by the Nuclear Regulatory Commission (NRC). We will explore the issue of whether or not SCE removed vital safety features on its nuclear equipment at risk to the public's safety. We will establish that these design changes, which were deployed to increase profits, were experimental in nature and recklessly implemented at the risk of

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<sup>3</sup> See the California Public Utilities Commission *General Rate Case* – [A Manual for Regulatory Analysts](#), California Public Utilities Commission Policy & Planning Division, Page 26, November 13, 2017, by Maryam Ghadessi and Marzia Zafar.

public safety in violation of the Prudent Manager standard.

**3. The settlement violates the Commission's Reasonableness of Rates standard.**

The Commission must by law require reasonableness hearings. Public Watchdogs will offer an analysis suggesting that before the proposed settlement can be approved, it must first undergo an evaluation of reasonableness under Commission rules. No costs can be charged to ratepayers unless and until SCE establishes by evidence that the cost is reasonable to ratepayers.

**4. The settlement appears to be an unconstitutional Regulatory Taking.**

We will establish in comments that because all three of these standards have been abandoned, the out-of-court settlement must be rejected on the basis that it is an unconstitutional regulatory taking of property from California ratepayers.

**5. The settlement may inadvertently complete an alleged criminal conspiracy.**

We will explore how the settlement has concealed from the Commission the details of an unlawful conspiracy whereby a top CPUC commissioner and SCE executives held a secret rate setting hearing in a hotel room in Warsaw Poland for the express purpose of preventing the evidence of SCE's reckless malfeasance from being publicly disclosed in regulatory court. We will show that the "deal points" in the original secret rate setting meeting required that the case be settled out of court in order to avoid any public examination of the evidence. We will also explore how the final settlement appears to ratify the majority of the nine deal points set forth in the Warsaw meeting.

**6. The settlement is a denial of due process**

We will demonstrate that the parties to the settlement have been encouraged to settle without a review of the evidence. This evidence suggests that SCE is 100% at fault. We will posit that the structure of the out-of court settlement hearing process has legitimized an illegitimate rate setting process, and as a result has denied the ratepayers their right to due process.

**7. The settlement challenges the Commission's legal authority and process.**

We will demonstrate that in this particular settlement, one of the parties successfully negotiated a \$5.4 million payout directly from SCE in exchange for settling the case out of court instead of disclosing the allegations of criminal activity in public hearings in regulatory court as established in Point #5 above.

This questionable \$5.4 million payout sets a precedent for utilities to issue large pay-offs to its legitimate opponents in rate cases which could threaten the entire purpose of intervenor compensation. In this particular case, it creates a perverse incentive for the utilities to buy the cooperation of intervenors outside the court.

It is the contention of Public Watchdogs that public utility rates should be set publicly in public hearings at the Public Utilities Commission. In this case, the Commission's approval of this settlement will establish a precedent of approving *secret rate-setting meetings* between utility executives and Public Utility Commission employees which are then ratified in secret closed door negotiations designed to conceal alleged criminal activity by the participants. Approval of this settlement makes a mockery of the public rate setting process, and undermines the legal authority of the Commission by destroying the integrity of the intervenor compensation process.

**IV. Notice**

Service of notices, orders, and other correspondence in this proceeding should be directed to Public Watchdogs at the address set forth below:

Charles Langley

Public Watchdogs

7918 El Cajon Blvd. #N324, La Mesa CA 91942

Tel: (858) 752-4600

E-mail: [Langley@publicwatchdogs.org](mailto:Langley@publicwatchdogs.org)

## **V. Conclusion**

For the reasons stated above, Public Watchdogs respectfully requests that the COMMISSION grant this Motion for Party Status filing.

Dated: February 28, 2018

Respectfully submitted,

/s/ Charles Langley

Charles Langley

Executive Director

Public Watchdogs

Tel: (858) 752-4600

E-mail: [Langley@publicwatchdogs.org](mailto:Langley@publicwatchdogs.org)

**Exhibit A: Letter of authorization of the Acjachemen Nation**





JUANEÑO BAND OF MISSION INDIANS  
ACJACHEMEN NATION

Teresa M. Romero – Chairwoman  
Anthony Vaughn – Vice Chair  
Joseph R. Lopez – Member at Large  
Ruthie Ann “Cookie” Stoffel – Member at Large

February 22, 2018

To Whom It May Concern,

We the undersigned, Tribal Council of Juaneño Band of Mission Indians, Acjachemen Nation, hereby authorized Public Watchdogs to represent the interests of our Tribe before the California Public Utilities Commission, Investigation 12-10-013, Order Instituting Investigation on the Commission’s Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.

Respectfully,

Teresa M. Romero, Chairwoman

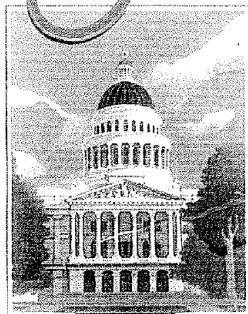
Anthony Vaughn, Vice Chairman

Joseph R. Lopez, Member at Large

Ruthie A. (Cookie) Stoffel, Member at Large

**Exhibit B: Assembly Resolution Recognizing Acjachemen**

# Assembly



## RESOLUTION

By the Honorable Bill Morrow, 73rd Assembly District; the Honorable Mickey Conroy, 71st Assembly District; the Honorable Marian Bergeson, 35th Senatorial District; the Honorable William A. Craven, 38th Senatorial District; and the Honorable John R. Lewin, 33rd Senatorial District; Relative to

### The Juaneno Band of Mission Indians

**WHEREAS**, The Juaneno Band of Mission Indians, Acjachemen Nation, whose villages were spread out over their aboriginal territory, throughout Orange County, from the Pacific Ocean to the West, to parts of Los Angeles County to the North, to parts of Riverside County to the East, and to parts of Camp Pendleton to the South; and

**WHEREAS**, Archeological reports through carbon dating have shown the Juaneno Band of Mission Indians, Acjachemen Nation, to be in existence dating back 10,000 years in Orange County; and

**WHEREAS**, The Juaneno Band of Mission Indians were known as the Acjachemen Nation long before the expansion of the Spanish Empire in 1769 into their ancestral homeland, usurping their lands, their religion, and adversely affecting the well-being of their people; and

**WHEREAS**, the documented descendants of the Juaneno Band of Mission Indians, Acjachemen Nation, whose ancestors were baptized at the Mission San Juan Capistrano consist of over 4,500 tribal members registered with the Bureau of Indian Affairs; and

**WHEREAS**, Conservatively over 7,000 Juanenos have continued to live in and around Orange County and the Mission San Juan Capistrano; and

**WHEREAS**, By an error of an Indian agent in not reporting the Juaneno Band of Mission Indians, Acjachemen Nation, existence in the 1880's, the Juaneno Band of Mission Indians, Acjachemen Nation, were removed from the records in Washington, D.C.; and

**WHEREAS**, Without being informed or consulted, the Juaneno Band of Mission Indians Acjachemen Nation, official existence was terminated; and

**WHEREAS**, The Juaneno Band of Mission Indians, Acjachemen Nation, exercising great patience, with continued hope and through their own funding and means have failed to regain recognition of the existence of their tribe for over 30 years through the Bureau of Indian Affairs-Federal Recognition Processing; and

**WHEREAS**, Juaneno Band of Mission Indians, Acjachemen Nation, is recognized as the aboriginal tribe of Orange County by the Tribal Chairmen's Association of Recognized Tribes; now, therefore, be it

**RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF CALIFORNIA JOINTLY**, that the Legislature of the State of California respectfully memorialize the President and the Congress of the United States to support and declare that the Juaneno Band of Mission Indians, Acjachemen Nation, to be the aboriginal tribe of Orange County; and be it further

**RESOLVED**, that the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

Assembly Joint Resolution No. 48  
Adopted in Assembly August 26, 1993

Signed:

*Willie L. Brown, Jr.*  
Willie L. Brown, Jr.  
Speaker of the Assembly

Attest:

*C. Dalton Wilson*  
Dalton Wilson  
Chief Clerk of the Assembly

Signed:

*Leo J. McCarthy*  
Leo J. McCarthy  
President of the Senate

Attest:

*Rick Rolons*  
Rick Rolons  
Secretary of the Senate

Adopted in Senate September 11, 1993

